

NOT FOR PUBLICATION

**IN THE DISTRICT COURT OF THE VIRGIN ISLANDS  
DIVISION OF ST. CROIX**

JAMILA RUSSELL and LAURITZ  
THOMPSON III,

Plaintiffs,

v.

SUPERIOR COURT MARSHAL  
CHRISTOPHER RICHARDSON, IN HIS  
INDIVIDUAL AND OFFICIAL CAPACITY;  
GOVERNMENT OF THE VIRGIN  
ISLANDS; and SUPERIOR COURT OF THE  
VIRGIN ISLANDS,

Defendants.

1:15-cv-00049

**MEMORANDUM OPINION**

THOMPSON, U.S.D.J.<sup>1</sup>

This matter comes before the Court on the motion to stay (ECF No. 120) brought by Defendants Christopher Richardson (“Richardson”) and Superior Court of the Virgin Islands (“Superior Court”) (collectively “Defendants”). On May 16, 2017, this Court denied Richardson’s motion to dismiss, and granted in part and denied in part the Superior Court’s motion to dismiss.<sup>2</sup> On June 5, 2017, Defendants filed a notice of interlocutory appeal and a motion to stay pending the Third Circuit Court of Appeals’ resolution of the interlocutory appeal. (ECF No. 120). Plaintiffs have not responded to the motion and the time for response has expired. For the following reasons, the Court will deny Defendants’ motion to stay.<sup>3</sup>

---

<sup>1</sup> The Hon. Anne E. Thompson, United States District Judge for the District of New Jersey, sitting by designation.

<sup>2</sup> Defendants originally filed a motion seeking reconsideration of this Court’s May 16, 2017 Opinion and Order. However, on June 30, 2017, Defendants withdrew that motion (ECF No. 124).

<sup>3</sup> On June 21, 2017, Defendants also filed a motion for expedited consideration of their outstanding motions. (ECF No. 123). This motion will be dismissed as moot.

## DISCUSSION

Federal Rule of Appellate Procedure 8 provides that “[a] party must ordinarily move first in the district court ... for a stay of the judgment or order of a district court pending appeal.” Fed. R. App. P. 8(a). “In considering whether to grant a stay pending appeal, courts consider the following four factors: (1) whether the appellant has made a strong showing of the likelihood of success on the merits; (2) will the appellant suffer irreparable injury absent a stay; (3) would a stay substantially harm other parties with an interest in the litigation; and (4) whether a stay is in the public interest.” *In re Revel AC, Inc.*, 802 F.3d 558, 565 (3d Cir. 2015) (citing *Republic of Phil. v. Westinghouse Electric Corp.*, 949 F.2d 653, 658 (3d Cir. 1991)). Courts must balance the factors “in light of the individualized considerations” relevant in each case. *Republic of Phil.*, 949 F. 2d at 658.

The Court is not persuaded that any of the immunity questions presented in Defendants’ notice of appeal will dispose of this case at this early stage, nor is the Court persuaded that Defendants have demonstrated a strong showing of likelihood of success on the merits of their appeal. The Court recognizes that, without a stay, Defendants will immediately be subjected to burdens of litigation and discovery. However, if the Court did issue a stay, Plaintiffs would be substantially harmed because discovery would be further delayed in this case, which has already been pending for almost two years. Therefore, denying the stay and allowing Plaintiffs to proceed with limited discovery solely on the issue of whether qualified immunity applies will further the Court and the public’s interest in efficient adjudication, Plaintiff’s interest in obtaining discovery, and Defendants’ interest in avoiding unnecessary burdens of litigation. As a result, Defendants’ motion to stay is denied, and discovery shall proceed. However, discovery shall be limited to the issue of whether qualified immunity applies to Defendant Richardson’s alleged actions.

### **CONCLUSION**

For the foregoing reasons, Defendants' motion to stay is denied, and discovery shall proceed on the issue of whether qualified immunity applies to Defendant Richardson's alleged actions. Additionally, Defendants' motion for expedited consideration (ECF No. 123) will be dismissed as moot. An appropriate order will follow.

Date: 7/5/17

/s/ Anne E. Thompson  
ANNE E. THOMPSON, U.S.D.J.